Diversion Without Debt: Case Studies from Three County Prosecutors Leading Fee Reform

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Introduction

Diversion programs offer an effective alternative to prosecution, aiming to connect people with resources, limit system contact, and avoid convictions and their collateral consequences. By reducing recidivism and increasing public safety, diversion programs can achieve better individual outcomes than traditional prosecution.[1] Over the past decade, more United States jurisdictions have embraced these programs to keep people in the community and limit costs.[2] Diversion programs can also be designed to promote racial equity.[3]

To meet their intended goals, diversion programs should be implemented in ways that center equity, accessibility, and the needs of participants. The Vera Institute of Justice (Vera) has identified five pillars of effective diversion that prosecutors should implement:

- eliminating broad eligibility exclusions based on conviction history;
- establishing pre-plea programs;
- implementing equitable screening processes;
- ensuring transparent community engagement; and
- creating programs that operate without participant fees.

This brief focuses on the final pillar: eliminating fees in prosecutor-led diversion. Many programs impose participant fees that contradict diversion's goals.[4] Currently, 40 states and Washington, DC, authorize diversion fees.[5] Of these, 22 mandate them, while 18 states and Washington, DC, grant discretion to impose them.[6] The result is a two-tiered system in which those with means to pay can avoid deeper system entanglement, while those who cannot pay are at risk of traditional prosecution and the harms that go along with it—including incarceration and other detrimental collateral consequences.[7]

Fees create financial barriers that limit access, increase the risk of non-completion, and place participants at greater risk of incarceration if they cannot pay. Even small fees can pose a significant barrier to participation. Fees can also undermine the objectives of diversion by incentivizing revenue over accessibility.

This brief draws on case studies from jurisdictions where prosecutors have eliminated or significantly reduced diversion fees: Ramsey County, Minnesota; Kaua`i County, Hawai`i; and Fairfax County, Virginia. These examples offer practical lessons in overcoming legal, political, and budgetary hurdles and show that equitable, fee-free or very low-cost diversion is achievable.

About this project

In 2023, Vera engaged with a midsized southern jurisdiction to examine the costs of its diversion programs. That work highlighted the financial burdens imposed on participants and institutional resistance to eliminating fees. Government officials maintained that the use of diversion fees is an accountability tool that motivates participants to complete programming and deemed fees necessary for the longevity of program funding. To deepen the field's understanding and test these claims, Vera surveyed relevant literature, including the Fines and Fees Justice Center's groundbreaking report *Priced Out*, and spoke with several jurisdictions that had addressed this issue. The case studies in this brief emerged from these conversations.

Diversion's Goals Undermined by Fees

Diversion programs offer alternatives to incarceration by connecting people to services and in turn promoting public safety. But participant fees can deepen inequities, shifting financial burdens onto those the programs aim to help.

Budget shortfalls have led many jurisdictions to rely on user fees, even though community-based interventions and alternative sentencing models save costs when compared to incarceration.[8] These fees are seldom reinvested to establish fee-free programs and instead lead to the privatization of services that ought to be publicly funded.[9]

These costs undermine diversion's intent: limiting system contact, reducing recidivism, and enhancing public safety. Participants shoulder debt that can persist for life, block program completion, and increase the risk of incarceration—through license suspensions, warrants, and repeated court involvement that makes escaping the system nearly impossible.[10] Fees may also incentivize revenue generation over public safety, creating further systemic inequities.[11]

How diversion fees work

The process for setting fees and assessing participants' ability to pay varies widely and is largely left to local discretion. In 40 percent of states, chief prosecutors and local courts set the fee amounts.[12] A survey of 79 diversion programs found that prosecutors alone ran 80 percent of such programs.[13]

Diversion costs are typically divided between flat one-time fees and recurring fees.[14] These fees include application fees, program fees, evaluation fees, supervision fees, and court fees paid to the chief prosecutor's office and local courts.[15] On top of these, many programs require ongoing fees for urinalysis tests, classes, interlock devices, electronic monitoring, lab tests, witness appearances, transportation, and more.[16] Program fees may be as low as $20 or as high as $4,100.[17] Because many programs lack transparent fee schedules or clear waiver policies, participants must proactively request relief.[18]

Only 21 states require program providers to consider a person's ability to pay. And just four states—Connecticut, Nevada, Oklahoma, and South Carolina—expressly prohibit denying program access based on inability to pay.[19] One jurisdiction, on the other hand, bars fee reduction or waivers altogether.[20]

The double disparity: unequal access to diversion

Many Americans are already struggling financially and lack the resources to absorb unexpected costs such as diversion fees.[21] This economic strain is particularly acute in communities of color.[22] Decades of discriminatory policies in housing, education, jobs, and wages have systematically blocked wealth-building opportunities for Black, Latinx, and Indigenous people, resulting in wealth disparities compared to white families.[23]

Criminal justice system involvement further compounds these economic disparities.[24] Seventy million, or one in three, U.S. adults have an arrest, conviction, or incarceration record.[25]

The intersection of race and system contact has particularly severe consequences:

- Black, Latinx, and Native American households are far more likely than white households to see a loved one arrested, convicted, or incarcerated.[26] One in five Black men born in 2001 is likely to be incarcerated in their lifetime.[27]
- White people are overrepresented in diversion programs.[28] For example, in 2019, white youth were diverted at rates 30 percent higher than Black youth across every major offense category.[29]

The result is a double disparity: Black, Latinx, Native, and low-income communities face higher rates of system contact and collateral consequences than white people but have reduced access to programs that could mitigate these harms.

The price of participation: insights from Alabama diversion programs

A 2020 Alabama Appleseed report that surveyed 1,011 system-involved Alabama residents found that eight in 10 diversion participants gave up necessities like food, rent, and medications to pay for programming.[30] Nearly half used high-cost payday and title loans to cover costs, and almost all relied on relatives and community members for financial help.[31] Most concerning for prosecutors, 42 percent reported committing new crimes to obtain money to pay fees.[32] **These findings suggest fees do not increase accountability or prevent further system involvement but instead may increase recidivism as a survival strategy to manage escalating financial demands.**

Fees can also cause low-income participants to be rejected and excluded from programming. Out of those surveyed, 20 percent had been turned down due to an inability to pay, and another 19 percent were kicked out for falling behind on payments.[33]

Following the money: the murky trail of diversion fee revenue

Diversion fees can create incentives to prioritize revenue generation within the criminal justice system. In some jurisdictions, diversion revenue has been allocated to state general funds, correctional supervision funds, local general funds, and local courts.[34] However, it is difficult to track who collects diversion fees and how the revenue is used, and prosecutors typically collect these fees with little oversight.[35]

At least five states require diversion revenue to be held in a fund that can only be used to cover the costs of programming, although what is considered a program cost is subject to interpretation.[36] For example, an Alabama law requires collected fees to be distributed into the chief prosecutor's solicitor fund to pay the costs associated with diversion programs—or to serve *any other law enforcement purposes*—at the chief prosecutor's discretion.[37] An Oklahoma statute specifies fees collected from an uninsured vehicle enforcement diversion program must be deposited into a special diversion fund. Yet, the statute also specifies that proceeds collected from the diversion program may be used toward any lawful expenditure associated with the operation of the chief prosecutor's office.[38] Such loopholes risk diverting fees away from participants' needs and program goals while also raising potential conflicts of interest.

Success Stories: Three Jurisdictions That Have Eliminated or Significantly Reduced Diversion Fees

The systemic issues in diversion outlined in this brief play out differently across local contexts. This section highlights three counties—Ramsey County, Minnesota; Kaua`i County, Hawai`i; and Fairfax County, Virginia—that have eliminated or significantly reduced fees in their diversion programs. Each case study explores the lessons learned and challenges faced during the county's transition to fee-free or reduced-fee diversion. Their examples provide valuable insights for other jurisdictions aiming to implement similar reforms.

Ramsey County, Minnesota: eliminating fees through cost savings and new revenue

Ramsey County, Minnesota, offers a compelling example of how eliminating fees from diversion programs can improve both justice outcomes and fiscal responsibility. Located in the Twin Cities metropolitan area, Ramsey is the state's most racially diverse and densely populated county, yet it has long faced stark racial disparities in its criminal justice system. From 2017 to 2021, although Black residents made up just 13 percent of the population, they accounted for 54 percent of referred cases, convictions, and incarcerations.[39]

Against this backdrop, County Attorney John Choi has led efforts to reshape prosecution with an emphasis on equity, accountability, and public safety. One of the most significant reforms has been a shift toward cost-free diversion programming, grounded in the belief that accountability shouldn't depend on a person's ability to pay.

Ramsey County's Felony Diversion Program is administered in partnership with the Second Judicial District Public Defender and JusticePoint, a nonprofit organization. The program focuses primarily on felony property and drug possession offenses and follows state sentencing guidelines for eligibility. The program is post-charge and pre-plea, though the County Attorney's Office does consider pre-charge diversion when appropriate. Importantly, diversion is free of charge to participants. Restitution to victims and survivors of crime may be required, but no other government-directed fees are imposed.

Before these reforms, diversion came at a cost. Participants often paid monitoring fees ($9–$10/day for alcohol monitoring, $20.75/day for GPS), probation fees ($150–$300), chemical health assessments ($125), and other charges.[40] These costs were a barrier for many participants—and yielded minimal local return. More than $60 million in fines and fees were left uncollected, with collection rates as low as 20 percent.[41]

The fees that were collected often were not reinvested in diversion at the local level. In 2018, people involved in the county's justice system paid at least $12.8 million in fines and fees, yet only 8.5 percent of that revenue remained in the county's general fund; the majority went to state-level agencies instead of local diversion efforts.[42]

To phase out diversion fees without impacting its budget, Ramsey County adopted a set of strategies that cut costs, streamlined operations, and generated new revenue.[43] This led to the following outcomes:

- **Savings of $793,000/year from reducing the number of people on probation.** In Ramsey County, 72 percent of people on probation were supervised for more than three years—far higher than the 15 percent average in comparable counties. Offering early discharge to low-risk clients cut caseloads and reduced staffing needs over time.[44]
- **Savings of $567,000/year from consolidating the county and state law libraries.** The county's library held a $1.9 million fund balance, much of it from criminal and civil fees, which could be used during the transition to a fee-free model.[45]
- **Additional revenue of $440,000/year from renegotiating jail housing contracts.** By restoring a higher per diem rate with Dakota County, the County Correctional Facility improved cost recovery.[46]
- **New revenue of up to $2 million/year from voluntary payments in lieu of property taxes by tax-exempt institutions.[47]**
- **Savings of $87,000/year from eliminating a staff role** previously focused solely on collection of community corrections fees.[48]

For Ramsey County, this was not simply a financial decision—it was a matter of values. County Attorney Choi put it simply: "Folks coming into diversion are members of your community. They may already be under-resourced and extracting more from them is counterproductive. Fee-free diversion enhances community safety and wellness."[49]

Key takeaways

Ramsey County shows that it is possible to run diversion programs without asking people to pay. To do so, chief prosecutors should take the following actions:

- **Frame fee elimination as a public safety strategy.** Ramsey County prosecutors emphasize that diversion fees do not enhance accountability but instead create barriers to program access and community safety.
- **Leverage fiscal analysis to offset revenue.** By identifying cost savings (such as shortening probation terms, consolidating services, and reducing collection costs) and new revenue sources (like voluntary "payment in lieu of taxes" agreements and contract renegotiations), county leaders showed that fee elimination can offset reductions in fee collections and be fiscally sustainable.[50]
- **Prioritize restitution and accountability, not revenue extraction.** Ramsey County maintained restitution for victims and survivors of crime to maintain accountability but rejected fees that served only to generate revenue.
- **Engage partners in collaborative implementation.** Recognizing the need for sustainable reform, the County Attorney's Office partnered with local stakeholders and fiscal experts to redesign diversion and budget structures around equity and long-term outcomes. County Attorney Choi credits the leadership of his county manager and board of commissioners in the effort to eliminate diversion fees and make up associated revenue shortfalls.
- **Engage budget leaders.** Because chief prosecutors don't control county budgets, success depends on building support early on among county boards, county managers, or state legislatures, depending on what entity has budgeting authority.
- **Leverage data to strengthen the case for change.** Fiscal analysis showed that traditional reliance on fines and fees was costly and unsustainable, reinforcing the need for a fee-free model.

Kaua`i, Hawai`i: grant-funded diversion

Kaua`i County, Hawai`i provides insight into how rural counties or under-resourced jurisdictions can prioritize funding diversion without fees. Kaua`i experiences unique challenges related to its geographic isolation, the historic effects of colonization, and high rates of substance abuse. These circumstances have produced wealth inequality and disparate racial involvement in the criminal justice system, especially among the Native Hawaiian population.

Addressing these challenges has been a top priority for Prosecuting Attorney Rebecca Like, who has championed harm reduction approaches and diversion efforts in the county. Kaua`i County partners with Hale `Ōpio, a local community-based organization, to administer its youth diversion program, called Teen Court. The county also entered into a partnership with Hō`ōla Lāhui Hawai`i, a Native Hawaiian health care provider and federally qualified health center, to administer its behavioral health diversion program. Additionally, the county offers a less structured family court diversion program for those who opt in to completing domestic violence intervention, couples counseling, individual counseling, parenting classes, or other programs. In addition to these diversion programs administered by the Office of the Prosecuting Attorney, the state judiciary also facilitates a drug court and veterans court to address substance use and mental health outside the traditional criminal justice system process.

The diversion structure on Kaua`i has thus far only addressed very low-level cases. The island's limited services and treatment options currently impede expansion to more people or more serious cases.

To fund its diversion efforts, the Office of the Prosecuting Attorney relies mostly on federal and county grants. In 2023, Kaua`i County received $1,000,000 in U.S. Department of Justice Bureau of Justice Administration (BJA) funding to support reentry efforts in the county and an additional BJA mental health grant (in partnership with Vera) totaling $550,000.[51] In the absence of a dedicated diversion budget, the office directs grant funds to its diversion priorities on a need basis. Reliance on grants requires the office to assign a dedicated grant coordinator to meet reporting requirements.[52]

Kaua`i County's success in funding diversion programs is contingent on the office continuing to receive grant funds, raising concerns for the long-term sustainability of diversion there among shifting political landscapes.

Efforts to eliminate fees beyond diversion

In 2025, Hawai`i joined a national effort to abolish juvenile criminal fines and fees. House Bill 129 proposed the elimination of financial penalties for minors, citing concerns that the practice is ineffective, exacerbates the challenges youth and their families face, and is disproportionately levied against Native Hawaiian youth.[a]

Legislative research assessing the use of fines and fees in the state revealed that only 17 percent of minors' fines have been paid in the last five years, further illustrating fines' inefficiency.[b] The Hawai`i legislature found no evidence that using fines and fees increases the likelihood of rehabilitation, deterrence, or accountability.[c]

Notes:

a. The Judiciary, State of Hawai`i, Testimony on H.B. 129 before the House Committee on Human Services & Homelessness, January 28, 2025, Hawai`i Legislature, https://www.capitol.hawaii.gov/sessions/session2025/Testimony/HB129_TESTIMONY_HSH_01-28-25_.PDF.

b. Judiciary, State of Hawai`i, Testimony on HB 129, 2025.

c. Hawai`i HB 129 (2025), https://perma.cc/EP86-LXS8.

A guiding principle behind Kaua`i County's diversion efforts is accessibility. Prosecuting Attorney Like understands that the people who most need the services diversion programs provide are also the most unable to afford the costs: "How are folks who are so down on their luck going to be able to pay a fee in addition to anything else? I think that we should avoid that at all costs." [53]

Key takeaways

Kaua`i County measured local capacity and advanced a careful strategy for removing fees while expanding access. Chief prosecutors seeking to follow its example should take the following actions:

- **Seek grants that can seed and sustain diversion in rural settings.** With limited local resources, Kaua`i has relied on federal grants to underwrite its diversion programs.
- **Adjust staffing to meet grant demands.** Reliance on external funding requires infrastructure to manage reporting and compliance, so Kaua`i has a grant coordinator to ensure funds are effectively administered and sustained.
- **Make accessibility non-negotiable.** Kaua`i leaders recognize that the people who need diversion are often least able to pay for it. Eliminating participant fees preserves access and prevents families from having to sacrifice basic needs to comply with program requirements.
- **Align evidence with fee elimination.** Legislative findings in Hawai`i show that juvenile fines and fees are both ineffective and inefficient—with no demonstrated deterrent or rehabilitative value.[54]
- **Adapt diversion to local capacity.** Kaua`i's programs remain limited to low-level offenses due to treatment and service gaps, illustrating that rural or resource-constrained jurisdictions may need to scale diversion gradually while building infrastructure.

Fairfax, Virginia: a low, one-time diversion fee

Fairfax County, Virginia, is one of the fastest-growing and most racially diverse counties in the South. Yet, Fairfax faces significant challenges with income inequality and concentrated poverty in communities of color, contributing to racial disparities seen in the county's criminal justice system. From 2009 to 2013 and 2017 to 2021, northern Virginia's most affluent neighborhoods saw notable gains—such as rising incomes and increased educational attainment—while hardship deepened in areas of concentrated disadvantage, including communities where childhood poverty reached 63 percent and overall poverty climbed to 30 percent.[55] Against this backdrop, in 2021, the Fairfax County Commonwealth Attorney's Office (OCA), led by Stephen Descano, entered an engagement with Vera pledging to measure and address racial disparities in the local criminal justice system.[56]

Fairfax County partners with Opportunities, Alternatives, and Resources (OAR) to administer its diversion program, Taking Root.[57] The program serves people charged with nonviolent offenses when underlying issues, such as substance use disorder, have contributed to the circumstances of their arrest.[58] Additionally, Fairfax has piloted a restorative justice diversion program serving young adults charged with nonviolent offenses.[59]

In addition to its diversion programs, OCA has three specialty treatment dockets addressing substance use and serving system-involved veterans and community members with mental health challenges.[60] Since beginning its diversion work, Fairfax County has significantly grown its referrals from just 29 in 2021 to more than 430 in 2025.[61]

To reduce the burden on participants, Fairfax County assesses only a one-time court fee for diversion, as required by state statute. All services provided and supervision requirements throughout the duration of the program are free of charge to participants.[62]

To fund its diversion efforts, OCA first invested directly from its own budget and then received an additional $250,000 in federal funding earmarked for diversion programs over the course of three years.[63] OCA also received $112,000 in cumulative grant funds from Vera to pilot and sustain community-based programming.[64]

Although the county has expanded diversion and remains committed to keeping it low cost, officials emphasized the longer-term need for a dedicated operating budget. If funding were lost, they said, they would pursue the most equitable fallback, such as sliding-scale, income-based fees.[65]

Key takeaways

OCA invested directly in diversion, limiting costs to participants to a single court fee mandated by state law and otherwise ensuring services remained free of charge. Some lessons learned from the Fairfax model include the following:

- **Diversion requires institutional investment.** OCA allocated a substantial portion of its own office budget, showing that local government investment can rapidly grow diversion capacity.
- **Jurisdictions must plan for long-term sustainability.** Even with strong local support, Fairfax officials emphasized the need for a dedicated, recurring diversion budget to safeguard programs against shifting political and funding landscapes. Diversifying funding sources is essential to sustaining diversion long term and to reducing vulnerability to political pressures, burdensome grant reporting, and fluctuations in external funding or local budgets.
- **If fee elimination is not immediately possible, provide the least restrictive alternative.** Implementing a single, modest fee—like Virginia's mandatory court fee—or a sliding scale model can still leave under-resourced participants struggling to meet costs but is better than charging large fees for diversion.
- **Community partnerships expand reach and credibility.** Securing strong community partnerships and integrating diverse local funding sources can significantly expand the reach and impact of diversion programs.

Establishing Cost-Free Diversion: Additional Recommendations

In addition to the lessons and recommendations drawn from these case studies, Vera offers supplemental guidance on advancing diversion practices that promote equity, fiscal responsibility, and effectiveness. Strategies for implementation will vary: some may require structural reforms and legislative action, while others can be accomplished by changing internal office policies and administrative practices.

- **Increase accountability and transparency.** Offices should make fee waiver and reduction policies publicly available online and in physical materials and notify every potential diversion participant of their availability. Defense counsel should also receive clear information to share directly with clients. If diversion fees are still collected, their use should be transparent to the public and limited to participant-focused purposes such as subsidizing essential service partnerships, supporting programming, or covering diversion staff salaries.
- **End retribution for nonpayment.** Office policy must explicitly prohibit nonpayment from being used to deny entry to diversion or to continue prosecution of charges.
- **Adopt alternatives to payment policies.** Where fee elimination has not yet been achieved, offices should provide income-adjusted payment plans modeled on progressive taxation, with payments capped at 5 percent of a person's discretionary income. Offices should prohibit reducing or increasing program requirements in exchange for payment and should broaden and standardize waiver policies, ensuring all participants are clearly informed about their availability.

Conclusion

Diversion programs are essential tools for chief prosecutors and courts seeking to improve public safety and support healthy communities by offering alternative pathways that connect people with resources and reduce the number of people entering the criminal justice system. Participant fees impose significant barriers to participation, do not increase public safety, and provide no reliable source of sustainable local revenue. Although the path to eliminating diversion fees may be challenging, doing so expands access to better outcomes and supports a more fair and effective criminal justice system.

About citations

As researchers and readers alike increasingly rely on public knowledge made available online, "link rot" has become a widely acknowledged problem for creating useful and sustainable citations. To address this issue, the Vera Institute of Justice is experimenting with the use of Perma.cc (https://perma.cc), a service that helps scholars, journals, and courts create permanent links to the online sources cited in their work.

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Credits

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Endnotes

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11 Subramanian, Fielding, Eisen, et al., *Revenue over Public Safety,* 2022, 13; and Mai and Rafael, *The High Price of Using Justice*, 2020, 3–5, 6, 8.

12 Fines and Fees Justice Center, *Priced Out*, 2024, 8. Chief prosecutors go by various titles depending on jurisdiction, including district attorney, commonwealth attorney, and county attorney, among others. This brief uses "chief prosecutor" as a catch-all phrase to encompass all head prosecutors.

13 Ibid., 8, 10.

14 Ibid., 7.

15 Ibid.

16 See Colo. Rev. Stat. §§ 18-1.3-101 and 18-1.3-204; Idaho Code Ann. § 19-3509; N.C. Gen. Stat. § 15A-1343(c1-c2); and Ohio Revised Code § 2935.36.

17 Fines and Fees Justice Center, *Priced Out*, 2024, 9.

18 Ibid., 10.

19 Fines and Fees Justice Center, *Priced Out*, 2024, 8, endnote 24. The 17 states and Washington, DC, with statutes that require consideration of ability to pay are California, Colorado, Connecticut, District of Columbia, Georgia, Idaho, Kansas, Kentucky, New Jersey, North Carolina, Oklahoma, Oregon, Tennessee, Texas, Utah, Vermont, Virginia, and Washington. For statutes of the additional states that prohibit denying participation based upon ability to pay, see Conn General § 54-56i; Nev. Rev. Stat. Ann. §174.032; Okl. St. Ann. § 22-305.1; and S.C. Code Ann. § 17-22-110.

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